

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION**

CHARLES TORNIS

PLAINTIFF

v.

No. 4:06CV91-M-D

MDOC, ET AL.

DEFENDANTS

**ORDER DENYING PLAINTIFF'S MOTION
TO EXTEND THE DEADLINE TO OBJECT
TO THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION,
ADOPTING THE REPORT AND RECOMMENDATION**

This matter comes before the court on the plaintiff's February 8, 2007, motion to extend the deadline to object to the Magistrate Judge's Report and Recommendation in this case. The plaintiff seeks a sixty-day extension of the deadline. For the reasons set forth below, the plaintiff's request shall be denied and the instant case dismissed under the "three strikes" provision of 28 U.S.C. § 1915(g).

No Extension of the Deadline to Object

The Magistrate Judge found in his Report and Recommendation that the plaintiff had accumulated three strikes under 28 U.S.C. § 1915(g) prior to filing this case. As such, before proceeding in federal court under 42 U.S.C. § 1983, the plaintiff must show that he stands in imminent danger of serious physical injury. Failure to meet these requirements will lead to revocation of *in forma pauperis* and dismissal of this case. Those are the only issues now before the court, and neither issue requires an extension to discuss. Either the plaintiff has accumulated three strikes, or he has not. Either he is under imminent danger of serious physical injury, or he is not. No additional briefing is necessary. Indeed, in the time the plaintiff took to file the instant motion to extend the objection deadline, he could have addressed both of these issues. He chose not to, and the deadline has expired.

Adoption of Magistrate Judge's Report and Recommendation

The Magistrate Judge found in his January 17, 2007, Report and Recommendation that the plaintiff has accumulated three strikes under 28 U.S.C. § 1915(g) – and that the plaintiff has not alleged that he stands in imminent danger of serious physical injury. In the case of *Milton Leon Simpson et. al. v. Fordice*, et al, Civil Action No. 4:95CV398, on April 10, 1996, this court dismissed Torns' complaint as frivolous (first strike). On July 13, 1998, the Fifth Circuit Court of Appeals dismissed the appeal of the *Simpson v. Fordice* case as frivolous (second strike). In *Torns v. MDOC*, 4:03CV410, on July 19, 2004, Judge W. Allen Pepper dismissed the complaint with prejudice for failure to state a claim (third strike). The plaintiff has thus accumulated three strikes under 28 U.S.C. § 1915(g).

As discussed above, the plaintiff has not objected to the Report and Recommendation, and the deadline for objection has expired. As such, the court the court shall adopt the Magistrate Judge's Report and Recommendation as the opinion of the court.

It is, therefore **ORDERED**:

1. That the Report and Recommendation of the United States Magistrate Judge dated January 17, 2007, is hereby **APPROVED AND ADOPTED** as the opinion of the court.
2. That based on the three strikes provision of 28 U.S.C. § 1915(g), the plaintiff's *in forma pauperis* status is hereby **REVOKED**.
3. That the plaintiff is **BARRED** from filing any future *pro se in forma pauperis* complaints without permission of one of the judges of the court.
4. That the plaintiff's motion to extend the deadline to object to the Magistrate Judge's Report and Recommendation is hereby **DENIED**.

4. That the instant case is hereby **DISMISSED** with prejudice.

SO ORDERED, this the 26th day of February, 2007.

/s/ Michael P. Mills
UNITED STATES DISTRICT JUDGE